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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,016	08/09/2001	V. Christopher Brown	5063A	4151

7590 03/02/2004  
Milliken & Company  
P.O. Box 1927  
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EXAMINER

RHEE, JANE J

ART UNIT PAPER NUMBER

1772

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/927,016	BROWN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jane J Rhee	1772	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11, 13, 16 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 13, 16, 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/15/03 has been entered.

### ***Withdrawn Rejections***

2. The 35 U.S.C. 103(a) rejection over Kerr of claims 1-5,7-8,14 and 16 has been withdrawn due to applicant's amendment filed in 12/15/03.
3. The 35 U.S.C. 103(a) rejection over Kerr in view of Sumimoto et al. of claims 6,10-11,15,17,22 has been withdrawn due to applicant's amendment filed in 12/15/03.
4. The 35 U.S.C. 103(a) rejection over Kerr in view of Rockwell,Jr. et al. of claims 9,12,13 has been withdrawn due to applicant's amendment filed in 12/15/03.

### ***New Rejections***

The following are new grounds of rejection in view of amendment filed in 12/15/03.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11,16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr. (5902662) in view of Sumimoto et al. (5198278).

Kerr discloses a floor mat system comprising floor mats each floor mat comprising a carpet pile backing or carrier of non woven fibrous construction (col. 3 line 45), a pile material tufted into the carpet pile backing which forms a pile surface on one side of the pile backing (col. 3 lines 43-45), and a vulcanized rubber backing sheet integrated in contacting relation to the other side of the pile backing (col. 3 lines 46-47 and col. 4 lines 25-26). Kerr discloses that the floor mat possesses suitable flexibility to be laundered on a regular basis in a standard industrial washing machine without appreciably damaging the mat or the machine (col. 1 lines 43-46). Kerr discloses that the pile material and/or the carpet pile backing is comprised of natural or synthetic fibers or blends thereof (col. 3 lines 44-46). Since Kerr discloses the same materials desired by the applicant, it obvious that under industrial washing and drying conditions, each of the pile backing and rubber backing sheet are characterized by shrinkage of less than 2.5% when subjected to industrial washing and drying, such that the floor mat is substantially resistant to rippling following industrial washing and drying. Kerr discloses a vulcanized rubber backing having a specific gravity in the range of about 0.5 to 0.98 integrated in contacting relation to the other side of the pile backing (col. 3 line 15).

Kerr fail to disclose that the carpet pile weighs from about 3.5 to about 4.5 ounces per square yard, the pile material weighs less than 20 ounces per square yard, the rubber backing weighs less than 58 ounces per square yard and each of mats has a

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total mat weight of less than 0.60 pounds per square foot. Sumimoto et al. teaches that the carpet pile weighs from about 3.5 to about 4.5 ounces per square yard (col. 4 line 12), the pile material weighs less than 20 ounces per square yard (col. 5 lines 61), the rubber backing weighs less than 58 ounces per square yard (col. 4 line 68), each of mats has a total mat weight of less than 0.60 pounds per square foot (col. 3 line 12 plus col. 4 line 68), for the purpose of creating a strong binding mat in usual use and washing wherein the product is not peeled or damaged (col 1 lines 28-29) .

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Kerr with the carpet pile that weighs from about 3.5 to about 4.5 ounces per square yard, the pile material that weighs less than 20 ounces per square yard, the rubber backing that weighs less than 58 ounces per square yard, each of mats has a total mat weight of less than 0.60 pounds per square foot, in order to create a strong optimum binding mat in usual use and washing wherein the product is not peeled or damaged (col. 1 lines 28-29) as taught by Sumimoto et al.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr in view of Rockwell, Jr et al. (6296919)

Kerr discloses the floor mat system described above. Kerr fail to disclose that the backing sheet is about 60 mil thick solid rubber. Rockwell, Jr et al. teaches that the backing sheet is about 60 mil thick solid rubber (col. 4 lines 14-15) for the purpose of reducing the possibility of the mat harming either the washing or drying machine or the mat being harmed itself during such rigorous procedures (col. 4 lines 39-41).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Kerr with the backing sheet that is about 60 mil thick solid rubber in order to reduce the possibility of the mat harming either the washing or drying machine or the mat being harmed itself during such rigorous procedures (col. 4 lines 39-41).

### ***Response to Arguments***

7. Applicant's arguments filed 12/15/03 have been fully considered but they are not persuasive.

In response to applicant's argument that Kerr does not disclose a plurality of floor mats formed simultaneously from a single backing sheet, Process limitations are given little or no patentable weight. The method of forming the product is not germane to the issue of patentability of the product itself. Further, when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claim in a product-by-process claim, the burden is on the Applicant to present evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. *In re Brown*, 459 F.2d 531, 173 USPQ 685 (CCPA 1972); *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974). This burden is NOT discharged solely because the product was derived from a process not known to the prior art. *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974).

In response to applicant's argument that Sumimoto et al. does not teach a floor mat in which the pile material weighs less than 20 ounces per square yard, Sumimoto

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teaches in col. 5 line 60 that the unit weight of the pile material is  $880\text{g/m}^2$  which corresponds to  $2.88\text{oz/yd}^2$ .

In response to applicant's argument that the proposed modification of Kerr to incorporate a solid rubber backing would require these teachings of a low specific gravity rubber backing to be ignored would result in a higher weight mat, Kerr and Sumimoto et al. both teaches the same rubber backing material of NBR and EPDM however, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Kerr with a rubber backing material comprising the weight of less than 58 ounces per square yard in order to create a strong binding mat in usual use and washing wherein the product is not peeled or damaged as taught by Sumimoto et al.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F.

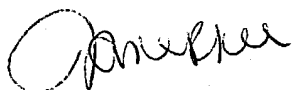
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Ahmad can be reached on 571-272-1487. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and none for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


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Jane Rhee  
February 22, 2004



NASSER AHMAD  
PRIMARY EXAMINER